MONTANA LEGISLATIVE HISTORY

Chapter 109 1981

Bill H 55 S _____ Original bill & history ✓ C

H. Committee on Local Government		S. Committee on Local Government	
Hearing Date(s) Jan 15	✓ C	Hearing Date(s) Mar 09	✓ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
Date Out Jan 20	✓ C	Mar 09	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

HOUSE BILL NO. 55

INTRODUCED BY FABREGA

BY REQUEST OF THE STUDY COMMITTEE ON ANNEXATION LAWS

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on Local Government.
January 16, 1981	Committee recommend bill do pass. Report adopted.
	Bill printed and placed on members' desks.
January 19, 1981	Second reading, do pass.
January 20, 1981	Considered correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 21, 1981	Introduced and referred to Committee on Local Government.
March 9, 1981	Committee recommend bill be concurred in. Report adopted.
March 10, 1981	Second reading, concurred in.
March 12, 1981	Third reading, concurred in. Ayes, 50; Noes, 0.

IN THE HOUSE

March 13, 1981	Returned from Senate. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 55

INTRODUCED BY FABREGA

BY REQUEST OF THE STUDY COMMITTEE ON ANNEXATION LAWS

A BILL FOR AN ACT ENTITLED: "AN ACT PRESCRIBING CONDITIONS UNDER WHICH LAND IS PRESUMED TO BE ANNEXED AND MAY BE SO RECORDED."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. When land conclusively presumed to be annexed. A tract or parcel of land that has been shown on municipal maps or plats as being within municipal boundaries but is later found to have been improperly or unofficially annexed is conclusively presumed to be annexed and may be so recorded if municipal taxes have been paid on the tract or parcel without protest for a period of 7 years.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 7, chapter 2, parts 42 through 47, and the provisions of Title 7, chapter 2, parts 42 through 47, apply to section 1.

-End-

INTRODUCED BILL
HB 55

3RD READING: 3/12, YEAS: 50

RETURNED TO HOUSE: 3/12
TRANSMITTED TO GOVERNOR: 3/18
ACTION: SIGNED, 3/23
CHAPTER 130

[illegible]—FABREGA—PRESCRIBING CONDITIONS UNDER WHICH LAND IS PRESUMED TO [illegible] ANNEXED AND MAY BE SO RECORDED.
PREFILED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 12/30/80
HEARING: 1/15
REPORT: DO PASS, 1/15
2ND READING: 1/19 YEAS: 88; NAYS: 4
3RD READING: 1/20 YEAS: 90; NAYS: 8

TRANSMITTED TO SENATE: 1/20
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/21
HEARING: 3/7
REPORT: 3/9, BE CONCURRED IN
2ND READING: 3/10, BE CONCURRED IN
3RD READING: 3/12, YEAS: 50

RETURNED TO HOUSE: 3/12
TRANSMITTED TO GOVERNOR: 3/18
ACTION: SIGNED, 3/20
CHAPTER 109

[illegible]—KESSLER—DELETING RESTRICTIONS ON ANNEXATION OF LAND USED FOR [illegible] INDUSTRIAL, MANUFACTURING, AND OTHER PURPOSES.
PREFILED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 12/30/80
HEARING: 1/20
REPORT: DO NOT PASS, 1/27
MINORITY REPORT: DO PASS, 1/27
SUBSTITUTE MOTION THAT THE MINORITY REPORT BE ADOPTED AND THE BILL PLACED ON 2ND READING: 1/29
YEAS: 46; NAYS: 44
2ND READING: 1/31, ON MOTION, PASSED FOR THE DAY.
2ND READING: 2/2, ON MOTION, PASSED FOR THE DAY.
2ND READING: 2/3, ON MOTION, PASSED FOR THE DAY.
2ND READING: 2/5, YEAS: 57; NAYS: 41
3RD READING: 2/7, YEAS: 42; NAYS: 57
BILL KILLED ON 3RD READING: 2/7

MOTION TO RECONSIDER ACTION, 2/7, YEAS: 58; NAYS: 41
MOTION TO PLACE THE BILL BACK ON 2ND READING FOR THE PURPOSE OF FURTHER DEBATE: 2/7 YEAS: 85; NAYS: 4
2ND READING: 2/9, YEAS: 56; NAYS: 41
3RD READING: 2/11, YEAS: 53; NAYS: 44

TRANSMITTED TO SENATE: 2/11
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/12
HEARING: 3/24
REPORT: 3/30, ADVERSE REPORT ADOPTED
YEAS: 29; NAYS: 18
BILL KILLED IN COMMITTEE

[illegible]—AZZARA, S. BROWN, FABREGA—TO DELETE CERTAIN RESTRICTIONS ON THE [illegible] ANNEXATION OF WHOLLY SURROUNDED LAND....
PREFILED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 12/30/80
HEARING: 2/3

REP. KESSLER: Yes, for the first five years.

REP. ANDREASON: What is being repealed in Section 2 of the Montana Codes?

DEBBIE SCHMIDT: The sections being repealed are just a codification.

There being no further questions, CHAIRMAN BERTELSEN opened the Hearing on HOUSE BILL 55.

HOUSE BILL 55 Sponsor JAY FABREGA introduced the bill to the Committee. He stated HB was introduced at the request of the Study Committee on annexation laws. You are looking at a package of bills. House Bill 55 is merely a house cleaning unit. The title itself simply says that if you have gone through the process and strictly followed the rules, the land is considered annexed even though it was not meant to be. There is no challenge as everyone presumed the land had been annexed, the taxes were paid and it was properly shown in the maps for a period of seven years.

PROPONENTS for HB 55

DAN MIZNER, Montana League of Cities and Towns, supports HB 55. The irregularity regarding property supposedly annexed for many years was brought out at a committee meeting and it was felt the law should be changed to clarify the matter. Seven years seemed to be a good length of time to use.

DAVE FISHER, Montana Volunteer Firemen's Association of Missoula; ART KORN, Secretary-Treasurer of the Montana State Volunteer Firemen's Association; BRUCE SUENRAM, and VERN ERICKSON all of Missoula had no objections and support HB 55.

@PPONENTS TO HB 55

There we no opponents to HB 55.

HOUSE BILL 59

SPONSOR OF HB 50, REP. JAY FABREGA, announced the bill makes a small but significant change. The bill addresses all the codification changes. Line 21 and 22 read "cities of the first class" and has now been changed to "municipalities". Page 2, line 12 read: "city council of a city of the first class", but now reads; "municipal governing body", etc. The bill eliminates an inequity that resident freeholders have more rights over their property than non-resident freeholders.

A corporation was considered a non-resident freeholder even though it was right there using the land. Is this a property right or a residency right? If you pay taxes, it is a property right. If you are not paying taxes for residency, whether you use it or not, the taxes go on. EXPLANATION: For the residency part, you could own property in Missoula and live in Billings, but you are still

HOUSE Fish & Game COMMITTEE

Date 1-15-91

BILL HB 55

SPONSOR Fabrega

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
T. Ellis	1775 Sierra Helena MT	Mont Statehood Gas		
	1550 9th Ave	FWP Board Members		
Tom Toole				
DENNIS NATHER	HELENA	CITY OF HELENA	X	
Erickson	Missoula, MT	Mont State Firemans Assoc	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME _____ Bill No. _____

ADDRESS _____ DATE _____

WHOM DO YOU REPRESENT _____

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: NO OBJECTIONS

CS-34
1-79

Form CS-34
1-79

NAME _____ BILL No. _____

ADDRESS _____ DATE _____

WHOM DO YOU REPRESENT _____

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Form CS-34
1-79

NAME R. H. Ellis BILL No. HB 43 50

ADDRESS 1735 Sierra Helena MT DATE 1/15/81

WHOM DO YOU REPRESENT Mont State Oil Firemans Assn

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: No objections to these Bills

STATEMENT PRESENTED BY DEPUTY MAYOR ROYAL JOHNSON, PRESENTED TO THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, ON JANUARY 15, 1981, REGARDING HOUSE BILLS 58, 59, 54 AND 55 DEALING WITH ANNEXATION.

My name is Royal Johnson, Deputy Mayor of Billings, Montana, and I appear before you today on behalf of the City Council of Billings. The City of Billings has been very active in the study that took place by the Interim Committee reviewing Montana's annexation laws during the past two years. In particular, we appreciated the Committee holding one of the meetings in Billings on this important study.

The City of Billings supports HOUSE BILLS 54, 55 and 58. We also support part of the provisions in HOUSE BILL 59. I will make a comment on each bill.

HOUSE BILL 54 clarifies the procedure that we think is part of the law already in that it allows the governing body of a city to select the statute and procedure that we will use for annexation, in those instances where more than one of the annexation procedures is applicable to a particular annexation. In Billings, we have been following this procedure and this would clarify this issue. There certainly needs to be a separate procedures to annex areas entirely surrounded by the City as opposed to areas on the outskirts of the City that are in early stages of development.

HOUSE BILL 55 simply would allow tracts of land that have been annexed and been treated as annexed property for 7 years even though there may have been some minor problems in the procedure used by that City. It seems to me that this is a housekeeping law that should be adopted.

HOUSE BILL 58 requiring cities to adopt a plan that would indicate the services that would be provided by the City and the time table for these services. The City of Billings thinks there should be a plan to provide all the municipal services to an area before it is annexed. Billings, as is the case in most other cities, feels the improvements to serve a particular area have to be funded by that area either

through special improvement bonds or private financing which places the responsibility back on the affected land owners. Except in rare instances, the revenues derived by a city from a newly annexed area are not sufficient to cover the operating costs of those services for several years. There certainly needs to be a plan acceptable to both the city and the land owners if we are to have the orderly development of our cities within our financial capacility. We support HOUSE BILL 58.

HOUSE BILL 59, which would eliminate the distinction between rights of resident and non-resident freeholders, and eliminates the distinction between the class of cities. The City of Billings feels that the annexation problems and needs of all cities are similar and only differ in scale and, therefore, the procedure should be the same in all classes of cities. On the other hand, we do take strong exception to the provision that gives non-resident freeholders the same right of protest as resident freeholders. In many instances, the land owned around cities is owned by absentee owners, in some cases, corporations, in some other states (particularly Minnesota and Colorado). It doesn't seem reasonable that we should give these non-residents the right to control the orderly growth of our cities and towns. The provision that has been in existance in first class cities since 1925 is working well and has been upheld by the courts, and we urge you to reject this section of HOUSE BILL 59.

I thank you for the opportunity to appear before you.

STANDING COMMITTEE REPORT

January 15, 19 77

MR. MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 55

A BILL FOR AN ACT ENTITLED: "AN ACT PRESCRIBING CONDITIONS UNDER WHICH LAND IS PRESUMED TO BE ANNEXED AND MAY BE SO RECORDED."

Respectfully report as follows: That HOUSE Bill No.

DO PASS

STATE PUB. CO.
Helena, Mont.

Local Government Committee

Dan Mizner of the League of Cities and Towns supports the bill. It clarifies the law. If they follow this, people will know what is going on.

Dennis Taylor, city of Helena, said this bill clearly outlines the procedures they have been following since last session. This just makes it clear. It is a restatement of what they did last session.

Margaret Davis of the League of Women Voters supports the bill.

Al Thelen of the city of Billings supports the bill.

There were no opponents of the bill appearing before the committee.

Representative Hurwitz made brief closing remarks.

There were no questions from the committee.

CONSIDERATION OF HOUSE BILL NO. 55:

AN ACT PRESCRIBING CONDITIONS UNDER WHICH LAND IS PRESUMED TO BE ANNEXED AND MAY BE SO RECORDED.

Representative Fabrega, District No. 44, said this bill was introduced at the request of the interim committee on annexation. It sets forth conditions under which land is presumed to be annexed and recorded.

Dennis Taylor, city of Helena, supports the bill.

Dan Mizner of the League of Cities and Towns said there are areas where it happened in the cities. They have been paying taxes for years and someone decided to sell their property and found out they were not officially in the city. He supports the bill.

Margaret Davis of the League of Women Voters supports the bill.

There were no opponents of the bill appearing before the committee

There were no questions from the committee.

CONSIDERATION OF HOUSE BILL NO. 58:

AN ACT RELATING TO THE PROVISION OF SERVICES BY MUNICIPALITIES TO NEWLY ANNEXED AREAS.

Representative Kessler, District No. 66, was the chief sponsor of the bill. It is a noncontroversial bill that guarantees

Senator McCallum then called for questions from the committee.

Senator Ochsner asked what a transportation district was for.

Representative Kemmis said there was a law passed in 1975 for a situation that occurred in Missoula. An urban area outside the city limits wanted a transportation system so they had to set up a special district outside the city limits.

Mr. Howell said one problem is that the urban transit district services larger areas than the community itself. It is a large district that contains a substantial amount of territory.

Senator Conover asked if this would apply to the Billings Heights area in Billings where they petitioned to run a bus out.

Representative Kemmis said his understanding was that Billings does not have a district under this law.

Al Thelen said they do not go outside the city. They go into the Heights area but not outside city limits. They do have an interlocal agreement.

DISCUSSION OF HOUSE BILL NO. 479: Senator Van Valkenburg asked if we could wait until Tuesday on this bill.

Senator McCallum said we should adopt the amendment if we are going to consider passing the bill.

Senator Conover made a motion to adopt the amendment which provided for an immediate effective date.

The motion carried unanimously.

DISPOSITION OF HOUSE BILL NO. 54: Senator Thomas moved the bill be concurred in.

The motion carried unanimously.

DISPOSITION OF HOUSE BILL NO. 55: Senator Thomas moved the bill be concurred in.

The motion carried unanimously.

DISPOSITION OF HOUSE BILL NO. 58: Senator Van Valkenburg said in the provision on lines 17 and 18 on page 1 the House had changed "or" to "and" and they are saying "otherwise mutually agreed upon." That facilitates annexation to some degree but without providing as much service. Would there be an ordinance that those people would not be taxed for services not provided.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 3/7/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond			✓
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

DATE MARCH 7, 1981

COMMITTEE ON LOCAL GOVERNMENT BILL NO. HB55

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Oppose
Ken A. Williams	Montana League of Cities & Towns	X	
Dennis D. Taylor	City of Helena	X	
Richard Brown	City of Great Falls	X	
R. A. Hoban	City of Billings	X	

(Please leave prepared statement with Secretary)

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 3/7/81 House Bill No. 55 Time 12:30

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	Excused	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Thomas moved the bill be concurred in.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 7 19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 55

FABREGA (MCCALLUM)

Respectfully report as follows: That HOUSE Bill No. 55

BE CONCURRED IN

~~DO PASS~~

GEORGE MCCALLUM, Chairman.

STATE PUB. CO.
Helena, Mont.